



## TRUSTEES FOR ALASKA

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July 5, 2016

SENT VIA FOIA ONLINE

National Freedom of Information Officer  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW (2822T)  
Washington, DC 20460

**Re: Freedom of Information Act Request**

Dear FOIA Officer:

Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, as amended, Trustees for Alaska requests copies of the following documents on behalf of Cook Inletkeeper ("Inletkeeper") related to the Cook Inlet General Permit for Oil and Gas Production/Development Facilities ("General Permit"):

1. All correspondence, electronic or written, between the U.S. Environmental Protection Agency ("EPA") and the Alaska Department of Environmental Conservation related to the General Permit since EPA issued the 2007 General Permit on 5/25/2007
2. All internal correspondence, electronic or written, from EPA related to the General Permit since EPA issued the 2007 General Permit on 5/25/2007
3. Any sampling information, studies, or other data related to Cook Inlet that was gathered, created, received, or reviewed by EPA since 5/25/2007

The term "documents" should be given the broadest possible interpretation and includes, but is not limited to, correspondence, memos, notes of meetings and telephone calls, electronic communications, pre-application meeting notes, reports, and facsimiles. Inletkeeper is not seeking copies of any publicly available documents, and does not need copies of duplicative emails.

We also request a waiver of any fees associated with this request. Under FOIA, fee waivers are decided on a case-by-case basis and "[d]ocuments shall be furnished without any charge . . . if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities

of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii); *see also* 40 C.F.R. § 2.107(l). Pursuant to EPA’s FOIA regulations, fee waivers are decided on a case-by-case basis, and permitted where the disclosure “is in the public interest because its release is likely to contribute significantly to public understanding of the operations or activities of the government,” and the information “is not primarily in the commercial interest of the requester.” 40 C.F.R. § 2.107(l)(1). In making this determination, EPA considers six factors. 40 C.F.R. § 2.107(l)(2) & (3).

Factor 1—whether the subject of the request concerns “operations or activities of the government.” 40 C.F.R. § 2.107(l)(2)(i). The subject matter of the requested records concerns documents that will inform the public about EPA’s involvement in oil and gas-related activities in Cook Inlet, and about any new information gathered since the EPA’s issuance of the 2007 General Permit. These documents relate to the State of Alaska’s forthcoming reissuance of the General Permit and EPA’s oversight of that permitting process. Thus, the request concerns “operations and activities of the government” and this factor is satisfied.

Factor 2—whether the disclosure of the information is “likely to contribute” to an understanding of government operations and activities. 40 C.F.R. § 2.107(l)(2)(ii). The State is planning to reissue the General Permit and anticipates providing an opportunity for the public to comment on the draft permit later this fall. The information received in response to this request will contribute to the public’s understanding of EPA’s oversight of the State’s permitting program and the reissuance of the General Permit. Inletkeeper’s members and the public in general are deeply concerned about the ongoing discharges and impacts to Cook Inlet from these oil and gas operations. The information will also help the public to understand the impacts and any new information related to Cook Inlet since EPA last issued the General Permit. Thus, the information is “likely to contribute” to an understanding of both past and potentially future agency decisions and activities, and this factor is satisfied.

Factor 3—whether disclosure of the information will contribute to the “public understanding” of the subject. 40 C.F.R. § 2.107(l)(2)(iii). The requested information will contribute to the public understanding of oil and gas activities and their impacts to Cook Inlet. Inletkeeper plans to disseminate the requested information to increase public knowledge about the General Permit, which the State anticipates reissuing in the near future. Inletkeeper has a long history of disseminating information similar to the documents requested here in order to help inform the public and encourage participation in future planning processes. It will disseminate the information through various means, including direct-mail letters, newsletters, reports, articles, electronic action alerts, various organizations’ web sites, and through other formal and informal communications. Thus, the “disclosure [will] contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester.” 40 C.F.R. § 2.107(l)(2)(iii).

Factor 4—whether the disclosure is likely to “significantly” contribute to the public’s understanding of the government’s operations and activities. 40 C.F.R. §

2.107(l)(2)(iv). Inletkeeper possesses the experience and expertise necessary to evaluate the requested information and provide it to the public in a useful form. It is highly qualified to extract, synthesize, analyze, and convey the requested information to the public, including concerned citizens, tribal organizations, and other organizations, as well as the public at large in a way that will significantly contribute to the general public's understanding of actions affecting public resources in Cook Inlet. Its staff includes professionals who specialize in public outreach and have direct experience with oil and gas extraction projects throughout Cook Inlet and the watershed. It will use that expertise to analyze and evaluate information, and to assist the public with commenting and engaging in the public process for reissuance of the General Permit.

Factor 5—whether the requester has a “commercial interest” that would be furthered by the disclosure. 40 C.F.R. § 2.107(l)(3)(i). Inletkeeper has no commercial interest in the disclosure of documents regarding the General Permit. Inletkeeper is a non-profit organization whose core mission involves protecting the quality of the Cook Inlet environment, public resources, and human health. Inletkeeper achieves this mechanism via mechanisms such as monitoring government management of public lands and waters, encouraging public participation in government processes, and ensuring enforcement of applicable public laws. As described above, the information will be disseminated to educate the public, and will not be used for commercial purposes. Thus, Inletkeeper has no commercial interest that would be furthered by disclosure and this factor is satisfied.

Factor 6—whether disclosure is “primarily” in the commercial interests of the requester. 40 C.F.R. 2.107(l)(3)(ii). As discussed above, Inletkeeper has no primary or secondary commercial interest in the dissemination of the requested information and, therefore, this factor is satisfied.

Based on the foregoing discussion, this fee waiver request meets the FOIA regulation requirements, and a fee waiver should be granted. However, if the EPA determines that the fee waiver should not be granted, we request that you contact us prior to incurring any fees to complete the FOIA request.

We also request that the EPA respond to this request within twenty (20) working days, as required by law. If the agency chooses to withhold any documents from disclosure pursuant to FOIA exemptions, we request that it: (i) identify each such document with particularity (including title, subject, date, author, recipient, and parties copied); (ii) explain in full the basis on which non-disclosure is justified; and (iii) provide us with any portions of the documents which may be segregated and for which a specific exemption is not claimed.

If you have any questions regarding the scope of this request, please do not hesitate to contact me at (907) 276-4244 ext. 115 or by email at [sbostrom@trustees.org](mailto:sbostrom@trustees.org).

Thank you for your prompt attention to this request.

Sincerely,

s/ Suzanne Bostrom  
Suzanne Bostrom  
Staff Attorney  
Trustees for Alaska